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EXAMINER

FIELDS, DORON D

ART UNIT	PAPER NUMBER
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4143

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/820,741	Applicant(s) SUN ET AL.	
	Examiner DORON D. FIELDS	Art Unit 4143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09 April 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Status of Claims

1. This action is in reply to the application filed on 9 April 2004.
2. Claims 1-12 are currently pending and have been examined.

Information Disclosure Statement

3. The Information Disclosure Statement filed on 9 April 2004 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1, 4-7, and 12 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 1 recites the limitation: "deciding to reach or to abandon a deal ..." The claim is indefinite because, as written, the Examiner cannot ascertain which option occurs. For the purposes of examination, the Examiner interprets the limitation to read: deciding on an action, after the price negotiation is completed, selected from the group consisting of reaching a deal and abandoning a deal.
7. Claims 4-7 recite the limitations: "determining whether or not the product price is acceptable; and reaching a deal if the product price is acceptable, or abandoning the deal and choosing another price negotiation mode if the product price is not acceptable." The limitations are vague and indefinite as subsequent to determining the acceptability of a price, only one option should be made available. For example, if by satisfying the "determining whether or not the product price is acceptable" limitation one determines that the price is acceptable, only one option – reaching a deal, should be available. For the purposes of examination, the Examiner interprets the limitations to read: deciding on an action selected

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from the group consisting of reaching a deal if the product price is determined to be acceptable and abandoning the deal and choosing another price negotiation mode if the product price is determined not to acceptable.

8. Claim 12 recites the limitation "the step of accumulating price negotiation points" in its last two sentences. There is insufficient antecedent basis for this limitation in the claim or its parent.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Examiner's Note: The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

10. Claims 1-9 rejected under 35 U.S.C. 102(b) as being anticipated by Hudda et al. (US-PGPUB: US 2001/0049636 A1).

Claim 1:

Hudda, as shown, discloses the following limitations:

A purchase method with price negotiation for facilitating a real-time purchase transaction in a system providing a user with real-time price inquiry and price negotiation to facilitate a purchase transaction through a computer program and a database, said method comprising the steps of:

- *selecting a product to buy* (see at least page 3, paragraph 0059: "A consumer enters a specific store 50 and, using a wireless device that is either brought with a consumer or provided by the

store, logs into the system of the present invention 52. Using, for example, a scanning capability on the wireless device, the consumer enters the UPC code of the desired goods 54.”);

- *choosing a price negotiation mode* (see at least page 6, paragraph 0097: “The consumer then has a number of options available once the goods are added to the shopping cart. The consumer can purchase the goods immediately, bid on the goods at a price desired by the consumer, request that the store match the price of the goods offered in another location, and/or request that the store accept a specific offer other than the stated price from the consumer.”);
- *initiating the price negotiation* (selecting one of the options described in page 3, paragraph 0097: “The consumer then has a number of options available once the goods are added to the shopping cart. The consumer can purchase the goods immediately, bid on the goods at a price desired by the consumer, request that the store match the price of the goods offered in another location, and/or request that the store accept a specific offer other than the stated price from the consumer.”); *and*
- *deciding to reach or to abandon a deal after the price negotiation is completed* (see at least page 5, paragraph 0080: “If an agreement is reached, the consumer purchases the desired goods in a wireless fashion as noted above, receiving an authorization code for checkout purposes.”).

Claim 2:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

- *wherein the purchase method is carried out in an Internet on-line transaction platform, a single machine, an open system or a closed system* (see at least page 9, paragraphs 0132 and 0133: “In one embodiment, the consumer wireless devices 920 can be provided by a merchant to customers inside a merchant store 950 location. Such an arrangement could use a cellular telephone-type wireless network 910 that communicates with the system server 900 over the Internet 905 or could use a local wireless network 916 that uses shorter-range RF, such as IEEE 802.11, that communicates directly with a system server located in the store. In a more typical embodiment, the consumer wireless devices 920 are selected from the group consisting of

personal digital assistants (PDAs) and cell phones. The consumer wireless devices 920 include means for inputting product or service identifiers, such as scanners, keypads, touchscreens, cameras, and voice-recognition devices.”).

Claim 3:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

- *wherein the step of choosing a price negotiation mode is conducted based on a user selection or a suggested price directly provided by a computer (see at least page 6, paragraph 0097: “The consumer then has a number of options available once the goods are added to the shopping cart. The consumer can purchase the goods immediately, bid on the goods at a price desired by the consumer, request that the store match the price of the goods offered in another location, and/or request that the store accept a specific offer other than the stated price from the consumer.”).*

Claim 4:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

the price negotiation mode being a mode of negotiating a price based on a quantity, wherein various discount prices are offered depending on a purchase quantity of a certain product, the price negotiation mode comprising the steps of:

- *entering a quantity of a product to buy (see at least page 3, paragraph 0059: “A consumer enters a specific store 50 and, using a wireless device that is either brought with a consumer or provided by the store, logs into the system of the present invention 52. Using, for example, a scanning capability on the wireless device, the consumer enters the UPC code of the desired goods 54.” Specifying a quantity, 1 through n, is inherent in selecting an item for purchase);*
- *searching for a discount price based on the quantity (see at least page 6, paragraph 0104: “As noted above, such negotiations include bidding for the particular product, requesting a matching price, making an offer to the merchant, and/or obtaining a volume discount based upon total purchases.”);*

- *returning a product price from the database* (see at least page 6, paragraphs 0104 and 0105 "The consumer then selects the shopping service desired which involves negotiating with the merchant 60. As noted above, such negotiations include bidding for the particular product, requesting a matching price, making an offer to the merchant, and/or obtaining a volume discount based upon total purchases. The server receives the consumer's desired choice and connects to the merchant's server 64. The merchant server processes the consumer's request 66 and the consumer is notified of the results 68.");
- *determining whether or not the product price is acceptable* (see at least page 6, paragraph 0105: "Assuming that the merchant and the consumer have reached agreement on the specific method of purchase as noted above, a unique encrypted code relating to the consumer's specific deal for the goods being purchased is sent to the consumer's wireless device 72."); *and*
- *reaching a deal if the product price is acceptable, or abandoning the deal and choosing another price negotiation mode if the product price is not acceptable* (see at least page 6, paragraph 0105: "Assuming that the merchant and the consumer have reached agreement on the specific method of purchase as noted above, a unique encrypted code relating to the consumer's specific deal for the goods being purchased is sent to the consumer's wireless device 72.").

Claim 5:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

the price negotiation mode being a mode of negotiating a price based on a bundle recommendation, wherein another product is recommended when selecting a certain product and a discount price is offered if both products are purchased, the price negotiation mode comprising the steps of:

- *searching for a suitable bundle product item in the database* (see at least page 6, paragraph 0101: "Additionally, and without limitation, the consumer may also inquire about other products which match the requirements for the desired product that the consumer would like to order. In this case, the server of the present invention will offer suggestions to the consumer for alternative goods that would be similar to those which the consumer desires to purchase, and which would

be available on the specific store in which the consumer is located” and page 10, paragraph 0145: “The system server 900 can also suggest items to be purchased based on a variety of criteria”);

- *reporting a product price from the database* (see at least page 6, paragraphs 0104 and 0105 "The consumer then selects the shopping service desired which involves negotiating with the merchant 60. As noted above, such negotiations include bidding for the particular product, requesting a matching price, making an offer to the merchant, and/or obtaining a volume discount based upon total purchases. The server receives the consumer's desired choice and connects to the merchant's server 64. The merchant server processes the consumer's request 66 and the consumer is notified of the results 68.");
- *determining whether or not the product price is acceptable* (see at least page 6, paragraph 0105: “Assuming that the merchant and the consumer have reached agreement on the specific method of purchase as noted above, a unique encrypted code relating to the consumer's specific deal for the goods being purchased is sent to the consumer's wireless device 72.”); *and*
- *reaching a deal if the product price is acceptable, or abandoning the deal and choosing another price negotiation mode if the product price is not acceptable* (see at least page 6, paragraph 0105: “Assuming that the merchant and the consumer have reached agreement on the specific method of purchase as noted above, a unique encrypted code relating to the consumer's specific deal for the goods being purchased is sent to the consumer's wireless device 72.”).

Claim 6:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

the price negotiation mode being a mode of negotiating a price based on user credit, wherein a credit level is given to a user according to total transaction times and an accumulated transaction amount and various discount prices are offered depending on the credit level, the price negotiation mode comprising the steps of:

- *entering user data* (see at least page 4, paragraph 0069: "Consumers using the present invention can register with the server 22 through their individual wireless shopping devices 12,14 or through workstations or personal computers 10, 30 that are connected to the Internet.");
- *searching for a product price based on the credit level* (see at least page 6, paragraph 0100: "Buying clubs are also a way of obtaining goods at a favorable price. The consumer can inquire and will receive information from the server relating to any existing buying group which the consumer may be eligible to join and which will result in the consumer obtaining goods at a more favorable price. Further, the consumer may form a buying group and invite others to join the buying group in order to obtain favorable pricing" and page 6, paragraph 0104: " As noted above, such negotiations include bidding for the particular product, requesting a matching price, making an offer to the merchant, and/or obtaining a volume discount based upon total purchases.");
- *reporting the product price from the database* (see at least page 6, paragraphs 0104 and 0105 " The consumer then selects the shopping service desired which involves negotiating with the merchant 60. As noted above, such negotiations include bidding for the particular product, requesting a matching price, making an offer to the merchant, and/or obtaining a volume discount based upon total purchases. The server receives the consumer's desired choice and connects to the merchant's server 64. The merchant server processes the consumer's request 66 and the consumer is notified of the results 68.");
- *determining whether or not the product price is acceptable* (see at least page 6, paragraph 0105: "Assuming that the merchant and the consumer have reached agreement on the specific method of purchase as noted above, a unique encrypted code relating to the consumer's specific deal for the goods being purchased is sent to the consumer's wireless device 72."); *and*
- *reaching a deal if the product price is acceptable, or abandoning the deal and choosing another price negotiation mode if the product price is not acceptable* (see at least page 6, paragraph 0105: "Assuming that the merchant and the consumer have reached agreement on the specific method of purchase as noted above, a unique encrypted code relating to the consumer's specific deal for the goods being purchased is sent to the consumer's wireless device 72.").

Claim 7:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

the price negotiation mode being a mode of negotiating a price based on an immediately quoted purchase price, wherein a user quotes a given number of different purchase prices for a product and the product is sold at a quoted purchase price closest to but not lower than a reserve price set for the product, the price negotiation mode comprising the steps of:

- *entering a quoted purchase price* (see at least page 5, paragraph 0080: "Another form of in-store negotiation that takes place using the wireless shopping device 12, 14 is a bidding process ... The consumer can then notify the merchant via the wireless shopping device and the server 22 that the consumer desires to pay only a certain price for the goods desired");
- *determining whether or not the quoted purchase price is higher than the reserve price, and allowing a user to quote the given number of different purchase prices* (see at least page 5, paragraph 0080: "The merchant can then either accept the bid, reject the bid, or make a counteroffer for consideration.");
- *returning to the step of entering a quoted purchase price if the quoted purchase price is lower than the reserve price* (see at least page 5, paragraph 0080: "The consumer can then notify the merchant via the wireless shopping device and the server 22 that the consumer desires to pay only a certain price for the goods desired. The merchant can then either accept the bid, reject the bid, or make a counteroffer for consideration. If an agreement is reached, the consumer purchases the desired goods in a wireless fashion as noted above, receiving an authorization code for checkout purposes." Accepting a bid, rejecting a bid, or making a counteroffer implies an iterative process) ;
- *determining whether or not the quoted purchase price is acceptable if the quoted purchase price is higher than the reserve price* (see at least page 5, paragraph 0080: "The consumer can then notify the merchant via the wireless shopping device and the server 22 that the consumer desires to pay only a certain price for the goods desired. The merchant can then either accept the bid,

reject the bid, or make a counteroffer for consideration. If an agreement is reached, the consumer purchases the desired goods in a wireless fashion as noted above, receiving an authorization code for checkout purposes."); *and*

- *reaching a deal if the quoted purchase price is acceptable, or abandoning purchase of the product if the quoted purchase price is not acceptable* (see at least page 5, paragraph 0080: "The consumer can then notify the merchant via the wireless shopping device and the server 22 that the consumer desires to pay only a certain price for the goods desired. The merchant can then either accept the bid, reject the bid, or make a counteroffer for consideration. If an agreement is reached, the consumer purchases the desired goods in a wireless fashion as noted above, receiving an authorization code for checkout purposes.").

Claim 8:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

- *wherein, in the step of deciding to reach or to abandon a deal after the price negotiation is complete, if deciding to reach a deal, the product is added to a shopping cart and a price record of the price negotiation is collected and saved in the database for use as an immediate price for next purchase* (see at least page 6, column 0096: "If after a review of the product reviews, the consumer desires to purchase the goods in question, the consumer so indicates and the goods are added to the electronic shopping cart 58 of the consumer" and page 10, paragraph 0153: "In another embodiment, the system server 900 stores transaction data 906 for each consumer as an order history. By providing consumers access to the transaction history, consumers can identify products or services for purchase by selecting the product or service from the order history, thereby facilitating repeat purchasing.").

Claim 9:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

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- *wherein, in the step of deciding to reach or to abandon a deal after the price negotiation is complete, if deciding to abandon a deal, then a price record of the price negotiation is collected and saved in the database so that the price will be offered to a user in the future when the price is met or a price negotiation will be made directly with a supplier based on the price record of the price negotiation* (see at least page 10, paragraph 0153: "In another embodiment, the system server 900 stores transaction data 906 for each consumer as an order history. By providing consumers access to the transaction history, consumers can identify products or services for purchase by selecting the product or service from the order history, thereby facilitating repeat purchasing" and page 10, paragraph 0154: "Another aspect of the present invention allows consumers to start buying groups using their wireless devices 920. The consumer requests initiation of a buying group for a product or service with said merchant using the consumer wireless device 920. The merchant can then accept said buying group by setting an initial price, setting a time period, agreeing to lower said price based on a volume of purchases through said buying group, and agreeing to sell the product or service at a conclusion of the time period to all members of the buying group at a final, lowered price.").

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
13. Claims 10-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Hudda in view of Khan (US-PGPUB: US 2001/0056395 A1).

Claim 10:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Khan, as shown, discloses the following limitations:

- *further comprising accumulating price negotiation points prior to selecting a product to buy (see at least page 10, paragraph 0132: "In addition, the system is further configured to award purchase incentives selected from the group consisting of: ... b) purchase points provided upon purchase of products and services. The basis for providing purchase points will vary, depending on the price and quantity of product purchased, the referral of new purchasers and other product and service drivers, as may be referenced in the membership agreement.").*

It would have been obvious to one skilled in the art at the time of the invention to introduce the customer loyalty system of Khan to the purchasing method of Hudda et al. as a point system builds customer loyalty and retention by rewarding loyal (*i.e.*, repeat) customers with preferred services and prices.

Claim 11:

Hudda discloses all the limitations of claim 10 as shown above. Furthermore, Khan, as shown, discloses the following limitations:

- *wherein the price negotiation points are accumulated on the basis of an accumulated transaction amount of on-line purchases and may be gained by purchasing a product or by participating in a special event (see at least page 10, paragraph 0132: "In addition, the system is further configured to award purchase incentives selected from the group consisting of: ... b) purchase points provided upon purchase of products and services. The basis for providing purchase points will vary, depending on the price and quantity of product purchased, the referral of new purchasers and other product and service drivers, as may be referenced in the membership agreement.").*

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It would have been obvious to one skilled in the art at the time of the invention to introduce the customer loyalty system of Khan to the purchasing method of Hudda et al. as a point system builds customer loyalty and retention by rewarding loyal (*i.e.*, repeat) customers with preferred services and prices.

Claim 12:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Khan, as shown, discloses the following limitations:

- *wherein, in the step of choosing a price negotiation mode, predetermined points are deducted for each price negotiation of a product, and the method returns to the step of accumulating price negotiation points if the points are insufficient* (see at least page 19, claim 70: "A system as recited by claim 65, further configured to permit buyer to request free chances, buy more chances at a predetermined chance purchase price, or redeem purchase points to buy more chances to bargain after the system program has stopped bargaining for a particular product or service.").

It would have been obvious to one skilled in the art at the time of the invention to introduce the customer loyalty system of Khan to the purchasing method of Hudda et al. as a point system builds customer loyalty and retention by rewarding loyal (*i.e.*, repeat) customers with preferred services and prices.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Doron D. Fields** whose telephone number is **571.270.3107**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **JAMES A. REAGAN** can be reached at **571.272.6710**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

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Washington, D.C. 20231

or faxed to **571-273-8300**.

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/Doron D Fields/Examiner, Art Unit 4143

16 April 2008

/James A. Reagan/Supervisory Patent Examiner, Art Unit 4143